

PLANNING BOARD OF THE CITY OF BANGOR

MEETING OF NOVEMBER 16, 2004

MINUTES

Board Members Present

**Hal Wheeler
Ryan King
Nathaniel Rosenblatt
Patricia Cummings
Bill Masters
Jonathan Siegel**

City Councilors Present:

Councilor Hawes

City Staff Present:

**Katherine Weber
James Ring
David Gould
Peter Witham
John Hamer**

News Media Present:

Bangor Daily News

In the absence of Chairman Guerette, Vice Chairman Wheeler called the meeting to order at 7:00 p.m. Chairman Wheeler congratulated the new City Councilors and the newly elected Council Chair, and thanked them for their service to the City. Mr. Wheeler noted that in the absence of Members Guerette and Clark that the Associate Members would be voting.

PUBLIC HEARINGS

Vice Chairman Wheeler asked that comments be limited to only those under the Board's purview and that the comments be brief. After a motion is made and seconded, Board members may take the opportunity to express any other pertinent views.

Item No. 1: To amend the Land Development Code by changing parts of parcels of land located at 810, 816, 818, 834 and 844 State Street from High Density Residential District to Shopping and Personal Service District. Said parts of parcels containing approximately .68 acres. Julie Sites, applicant. C.O. #05-07.

Vice Chairman Wheeler opened the Public Hearing, and asked the applicant or their representative to make a brief presentation. Mr. Fred Marshall of Plymouth Engineering indicated that he represented Julie Sites in the rezoning application. Mr. Marshall indicated that the proposal was a readjustment of zoning boundary lines within the existing property. The property has been developed over many years, and has commercial zoning, Shopping and Personal Service District, on the State Street frontage, and High Density Residential on the rear portion of the site. The commercial portion of the site is developed as multiple motel buildings. The residential portion of the site is developed as multiple multi-family apartment buildings. The requested rezoning is intended to accommodate an additional 12-unit motel building. The area to be rezoned is approximately $\frac{3}{4}$ of an acre and will, more or less, straighten out the zoning boundary between the commercial and residential zoning districts.

Mr. Rosenblatt asked if the property to be rezoned was presently vacant. Mr. Marshall indicated that it was. Vice Chairman Wheeler asked for any other proponents.

Ms. Julie Sites, applicant and owner of the Riverview Motel, indicated that they had established a niche market for corporate rental units, efficiencies with kitchens, that are rented out long-term for out-of-town guests. Mr. Wheeler asked what the availability of this type of unit was in Bangor. Ms. Sites indicated that they had thirty of these units which are in high demand. If the rezoning is approved it is their intent to build an additional twelve units.

Vice Chairman Wheeler asked for any opponents. There being none, he closed the Public Hearing, and asked for Staff comments. Ms. Katherine Weber, Planning Officer, indicated that the applicant, Julie Sites, requests an amendment to the Land Development Code to change a portion of her property on State Street from High Density Residential District (HDR) to Shopping and Personal Service District (S&PS). The area to be rezoned is approximately .68 acres. Ms. Weber provided a brief history of the development of this area, and pointed it out on the Land Use Plan. For some reason the commercial area on the State Street frontage was overlooked in the last version of the Land Use Plan. This area is recognized as a transition area in the current comprehensive planning review of the City. The Planning Staff finds the proposal to be a readjustment of

the zone boundary and recommends that the Planning Board recommend to the City Council adoption of the proposed zone change from High Density Residential District to Shopping and Personal Service District for .68 acres located on State Street.

Vice Chairman Wheeler indicated that Associate Members Cummings and Masters would vote on this item. Mr. Masters moved to recommend that the Planning Board recommend that the Bangor City Council adopt the proposed rezoning amendment. Mr. Rosenblatt seconded the motion. Mr. Masters asked if a new building would be built or would an existing building be remodeled or reused. Mr. Marshall indicated that a new structure would be built.

The Board voted 5 to 0 to recommend that the City Council adopt C.O. #05-07, to rezone approximately .68 acres of land from High Density Residential to Shopping and Personal Service District, Julie Sites, applicant.

Item No. 2: To amend the Land Development Code Chapter 165, Section 165-94 to add the Bass Park District and to amend Chapter 165, Section 165-13 Definitions. City of Bangor, applicant. C.O. # 05-08.

Mr. Rosenblatt indicated that his legal firm represented Penn National which would benefit from the proposed change in the Land Development Code. One of his partners in the legal firm of Farrell, Rosenblatt and Russell was present along with representatives of Penn National. Mr. Rosenblatt requested that he be allowed to abstain from voting.

Mr. King moved to allow member Rosenblatt to recuse himself from voting on this item. Ms. Cummings seconded the motion, and the Board voted 4 to 1 to allow Mr. Rosenblatt to be excused from voting.

Vice Chairman Wheeler noted that all three Associate Members would need to vote on this item. He then opened the Public Hearing, and asked for a representative of the applicant. Mr. John Hamer, Assistant City Solicitor, explained that the proposed language would add a new district to the Land Development Code but would not establish a district "on the ground" at this time. Presently, Bass Park operates in the Government and Institutional Service and Park and Open Space District. These districts accommodate the auditorium, civic center, racetrack and golf course. As the Board is aware the approval of Bass Park as a location for a Racino has prompted the City to look at the zoning issues surrounding such a development.

Mr. Hamer explained that the proposed Bass Park District is a hybrid district combining elements of the Government and Institutional Service District and the Waterfront Development District. While other existing districts in the City may accommodate a racino, the City was hesitant to provide for such sweeping changes at this location. The intent is to accommodate the existing uses while allowing the racino and its customary associated uses.

Vice Chairman Wheeler asked if this might be the beginning of a trend to add more districts to the Land Development Code, and if the Bass Park District would have a separate or different oversight board. Attorney Hamer indicated that it was not likely because existing districts would be "fine-tuned" as was the case with the Neighborhood Service District. Furthermore, Mr. Hamer indicated that the Bass Park District would operate as any other zoning district in the City.

Ms Cummings asked if a racino facility would be allowed in other districts in the City. Attorney Hamer indicated that while the Land Development Code would allow such uses, the State Law provisions for the racino have specific distance standards for how far the Racino can be located from the race track.

Mr. Masters asked what the boundaries of the Bass Park District would be. Attorney Hamer indicated that they had not been finalized yet but would be in the approximate area of Bass Park where the Civic Center and Auditorium are located.

Mr. King asked how the specific list of uses was arrived at for this district. Mr. Hamer indicated that the list of uses was intended to allow for the existing activities at Bass Park and the Civic Center, plus allow for the racino, its gaming and associated retail facilities.

Mr. Masters asked what some customary and incidental uses to a racino might be. Mr. Masters suggested that Bangor may not want some of the customary and incidental uses of a casino. Attorney Hamer indicated that customary accessory uses are allowed in all zoning districts.

Mr. Masters asked Mr. Hamer to further explain what is meant by innovative civic and commercial uses. Attorney Hamer explained that the narrative in the Staff memo is not the exact language that is in the Council Ordinance. The Board should review the specific language in the Council Ordinance.

Mr. King noted that the development standards would allow very intense development with an 80-foot height limit and impervious surface ratio of .70. The intensity of development may not be fitting with the open space of the Park and Open Space District. Mr. Hamer responded that the Government and

Institutional Service District standards provide for fairly intense developments. Mr. Siegel asked if the intent was to limit the racetrack to horse racing. Ms. Weber indicated the definition is for live horses, so it is limited.

Vice Chairman Wheeler closed the Public Hearing and asked for Staff comments. Katherine Weber, Planning Officer, indicated that the proposed amendment to the Land Development Code would add the Bass Park District to the list of Land Use Districts in the Ordinance. The district is a mix of Park and Open Space District, Government and Institutional Service District and General Commercial and Service District. Providing zoning for the new Racino is a two step process; first, district language must be developed which is what the Board is reviewing tonight, and second, the physical boundaries of the district must be located on the ground as a map amendment.

Ms. Weber noted that in several areas, the City uses geographically-limited zoning districts like the airport, waterfront and downtown. Ms. Weber indicated that the proposed language will include two new definitions; gaming facility and racetrack. The language does provide for what the City anticipates will be the uses for the racino project. Staff would recommend that the Planning Board make a positive recommendation to the City Council.

Vice Chairman Wheeler called for a motion on the amendment. Mr. King moved to recommend that the City Council adopt the proposed Land Development Code amendment. Mr. Masters seconded. Vice Chairman Wheeler called for discussion on the motion. Mr. King indicated that he found the proposed Bass Park District inconsistent with the intent of Joseph P. Bass for a recreational area for horse racing. The new district would allow intensive urban development via height and lot coverage.

Ms. Weber indicated that the existing uses at Bass Park are a mix of open space and intensive civic uses. Mr. Wheeler indicated that the use of Bass Park has grown in the last ten years, but such a level of intensity was not always this way. It would seem that this is the anticipated civic activity that Mr. Bass and his heirs would accept. Bass Park is the center of most of the significant entertainment in the city.

Mr. Masters indicated that the district language should encourage family-oriented recreation. The 1,000-plus slot machines may not be a family-oriented activity. Mr. Wheeler noted that the existing harness racing facility does provide for gambling. Mr. Wheeler indicated that it was consistent with what the citizens of Bangor had voted for in the City-wide referendum. Mr. Masters indicated that he wanted to ensure that adequate protections are in place for an appropriate scale facility, and he was uncomfortable with unknown accessory uses and an undefined map of the area being changed.

Vice Chairman Wheeler called for a vote on the motion. The Board voted two in favor and three opposed to recommending passage by the City Council of C.O. # 05-08.

APPROVAL OF MINUTES

Item No. 3: Planning Board Approval of Minutes.

Chairman Wheeler noted that the Board had the August 17, 2004 Meeting Minutes for approval. Mr. Rosenblatt moved to approve the Minutes of the August 17, 2004 meeting. Mr. King seconded the motion, and the Board voted unanimously to approve the Minutes of the August 17, 2004 meeting.

NEW BUSINESS

Item No. 4: Site Development Plan and Site Location of Development Act Modification approval to construct a 6,920 sq. ft. co-generation building located on the Eastern Maine Medical Center Campus at 489 State Street in a Government and Institutional Service District. Eastern Maine Medical Center, applicant.

Mr. Rosenblatt indicated that he does legal work for EMMC, and indicated that he may have the appearance of a conflict. The Board concurred to allow Mr. Rosenblatt to recuse himself from voting.

Vice Chairman Wheeler asked the applicant or their representative to make a brief presentation of their application. Mr. John McCormack, PE of Civil Engineering Services, indicated that he represented Eastern Maine Medical Center in the proposed application. Mr. McCormack introduced the various specialists on the project; Red Webster of Cianbro Corporation, Jeff Mylen of Eastern Maine Medical Center, Bruce Bennett of Vanderweil Engineering, and Andy Hamilton of Eaton Peabody, Counsel for the Hospital. Mr. McCormack noted that the project was well described in the Staff Memorandum, and that time would be best served by answering any specific questions that the Board had concerning the project.

Mr. King asked what the proposed cogeneration building would look like. Mr. McCormack indicated that it would be a steel-sided building to match the existing mechanical/maintenance plant. Mr. Siegel asked if it would be possible to lower the smoke stack height. Mr. Bruce Bennett of Vanderweil Engineering indicated that "yes" it would be possible, but that he did not think it would be permitted by the Department of Environmental Protection. Mr. Bennett indicated

that in a more rural setting a lower stack may work and still meet emission standards; but at this location, it likely is not going to be permitted. Mr. Siegel asked if it were possible to design a shorter stack. Mr. Bennett noted that it may be technically feasible, but it may not be adequate to obtain permits from the State.

Mr. Masters asked if the stack would have a smoke plume like that from the generation facility in Veazie. Mr. Bennett indicated that the plume is due to water beginning added to the emissions which creates steam vapor. No water will be used to control emissions at EMMC, so no plume will occur. Mr. Masters indicated that his experience with turbine engines is that they are very loud, so what will the potential noise impacts be. Mr. Bennett noted that the gas turbine would have attenuation features to lessen the sound, as well as, the turbine being housed inside a building. He estimated that the decibel level would be less than 60 dBA 100 feet from the building, and much less at any adjacent residential properties.

Associate Member Cummings asked what the potential cost savings were going to be for EMMC. Jeff Mylen of EMMC indicated that they estimated that in the first year, a saving of a \$1,000,000 could be realized. Mr. Mylen indicated that the Hospital needs to have a highly reliable source of electricity. The Hospital is obtaining a grant to proceed with the project as a health care model for power generation.

Vice Chairman Wheeler asked for Staff Comments. Planning Officer Weber indicated that the applicant, Eastern Maine Medical Center, requests Site Development Plan (SDP) Approval and Site Location of Development Act (SLODA) modification to construct a one and one-half story, 6,920-square foot co-generation building. In addition to the co-generation building, the project will include a 1,600-square foot salt storage area, two 16-foot tall cooling towers, and a new 95-foot tall emissions stack.

Ms. Weber noted that, due to its location, the Shoreland Zoning Standards were applied and all the standards were met. The Planning Staff finds that the application meets the standards of Section 165-114, A through J, and recommends approval of the Site Development Plan. Staff finds that the application meets the standards of the Site Location of Development Act Law. Staff requests that the Board take separate votes on the Site Development Plan and the Site Location of Development Act modification applications.

Vice Chairman Wheeler called for a motion on the Site Development Plan. Mr. Masters moved to approve the Site Development Plan for Eastern Maine Medical Center's Co-generation building. Ms. Cummings seconded the motion.

Vice Chairman Wheeler recognized Dr. Murray Liebowitz . Dr. Leibowitz indicated that he was a neighbor of the Hospital, and had worked there for 21 years. He wanted to know what types of emissions the stack would emit, and if someone could explain in layman's terms how loud 60 decibels is. Mr. Bruce Bennett indicated that the stack emissions are primarily nitrous oxides (NOx). He listed some examples of sixty-decibel sounds.

Vice Chairman Wheeler called for a vote on the motion. The Board voted unanimously to approve the Site Development Plan. Mr. Wheeler called for a motion on the Site Location of Development Act Plan modification. Mr. Masters moved to approve the modification for Eastern Maine Medical Center's Site Location of Development Act License. Mr. King seconded the motion, and the Board voted unanimously to approve the modified Site Location of Development Act License.

Item No. 5: Site Development Plan and Site Location of Development Act Modification Approval to construct a softball field located off of Husson Avenue adjacent to the Winkin Baseball Complex in a Government and Institutional Service District, Husson College, applicant.

Vice Chairman Wheeler asked the applicant or their representative to make a brief presentation of their application. Mr. Robert Kuhn, Chief Operating Officer of Husson College, indicated that it was the College's intent to build a new NCAA-compliant softball field on the location of the former practice football field.

Mr. Rosenblatt asked if it was correct that the field would have no lighting. Mr. Kuhn indicated that there would be no lighting. Mr. Rosenblatt noted that the application indicated that the project would be completed in phases, and would Mr. Kuhn explain what is in each phase. Mr. Kuhn indicated that the first phase of the project would be to construct the field and make it playable. The second phase would be to construct additional seating and amenities if there is adequate fan support.

Mr. Rosenblatt asked if the buffer planting would be in the first phase. Mr. Kuhn indicated that they would be. Mr. Rosenblatt noted that the application indicated that a portable sound system would be used. He asked if Mr. Kuhn had any additional information on the sound levels that would be produced by the portable system. Mr. Kuhn indicated that the College would be happy to comply with the sound limits agreed to for the baseball field.

Mr. Siegel asked if the field might be used for activities other than NCAA play. Mr. Kuhn indicated that the College makes its facilities available for community use if it does not interfere with the College's schedule. Mr. Siegel clarified his question to ask about after hours use by students. Mr. Kuhn noted that the field would not be lighted or authorized for use after daylight.

Vice Chairman Wheeler asked for Staff comments. Planning Officer Weber indicated that the applicant, Husson College, is requesting Site Development Plan approval and a modification to its Site Location of Development Act license to construct a softball field and related improvements off of Husson Avenue in a Government and Institutional Service District.

Ms. Weber noted that the City Engineering Office has reviewed the plan, the stormwater analysis, and the erosion control details, and finds that they meet the standards of the Ordinance and Site Location of Development Act regulations. The Planning Staff recommends approval of the Site Development Plan and the modification to the Site Location of Development Act license for Husson College. Ms. Weber requested that the Board take two separate votes on these applications.

Vice Chairman Wheeler indicated that Associate Members Siegel and Cummings would vote. Vice Chairman Wheeler recognized Ms. Sara Suyama, 121 Husson Avenue. Ms. Suyama indicated that it was her understanding that the sound levels at Husson College would be governed by specific limits, and that she had made repeated complaints about loud sound levels during sporting events without much success. Additional sporting facilities that will be closer to her residence could prove even more problematic. Ms. Suyama asked if it would not make sense to understand the sound levels prior to approving the application.

Two hours prior to the game, she met with College Security and the Bangor Police, and it was concluded that sound levels could be reduced. These events have occurred on multiple occasions. Ms. Suyama indicated that Husson College sports activities also generated a good deal of litter. Mr. Siegel indicated that these issues are best addressed by the Code Enforcement Office.

It was noted that the public address system noise has been monitored regularly during the Minor League Baseball games and that the levels were within the parameters set by the Planning Board. Mr. Kuhn indicated that he would request that the public address system for the soccer program be turned down.

Vice Chairman Wheeler asked for a motion. Mr. King moved approval of the Site Development Plan for Husson College. Ms. Cummings seconded the

motion. The Board voted 5 to 0 in favor of the motion to approve the Site Development Plan for Husson College.

Mr. King then moved to approve the Site Location of Development Act Modification for Husson College. Ms. Cummings seconded the motion. Mr. Rosenblatt indicated that he did not find that the applicant had adequately addressed how they would meet the noise standard, and would not vote in favor of the application. The Board voted three in favor and two opposed to approving the Site Location of Development Act Modification for Husson College.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:20 p.m.